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Filed : January 14, 1999

### REMARKS

Claims 26 and 100-116 are pending in this application. Applicants have canceled Claims 1-25 and 27-99 without prejudice and without disclaimer. Applicants reserve the right to prosecute the canceled claims in one or more continuation applications. The Examiner rejected Claim 26 on grounds of indefiniteness under 35 U.S.C. § 112, second paragraph, and anticipation under 35 U.S.C. § 102(b). With respect to the anticipation rejection, the Examiner stated that United States Patent No. 5,758,328 to Giovannoli anticipates Claim 26. Applicants herein have amended Claim 26 and have added new Claims 100-116. Applicants believe that pending Claims 26 and 100-114 are allowable over the prior art of record and request allowance.

#### **Response to the Rejection of Claim 26 Under 35 U.S.C. § 112, Second Paragraph**

The Examiner stated that the following limitations are indefinite: "each set of purchase requests associated with one of a plurality of dealers at least some of said purchase requests assigned to an associated dealer by the dealer-association module, each purchase request belonging to at least one set of purchase requests and fewer than all sets of purchase requests." Applicants have amended Claim 26, including the portion viewed by the Examiner as indefinite. Because amended Claim 26 satisfies the definiteness requirement of 35 U.S.C. § 112, second paragraph, Applicants respectfully request the Examiner to withdraw the indefiniteness rejection.

#### **Response to the Rejection of Claim 26 Under 35 U.S.C. § 102(b)**

The Examiner rejected Claim 26 as being anticipated by the Giovannoli patent under 35 U.S.C. § 102(b). Applicants note that the Giovannoli patent does not qualify as prior art under 35 U.S.C. § 102(b) because it issued May 26, 1998, less than one year prior to the filing date of the present application.

Further, Applicants respectfully submit that the Giovannoli patent does not anticipate amended Claim 26, even assuming *arguendo* that the Giovannoli patent qualifies as prior art under 35 U.S.C. § 102(a) or 35 U.S.C. § 102(e).<sup>1</sup> To anticipate Claim 26, the Giovannoli patent must teach "each and every element as set forth in the claim." *See, e.g., Verdegaal Bros. v. Union Oil Co. of Calif.*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987) (quoted in *M.P.E.P.* § 2131). While the Examiner shows similarities between the Giovannoli system and the

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<sup>1</sup> Applicants reserve the right to swear behind the Giovannoli patent at a later date.

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system of Claim 26, the Examiner has not met the standard for anticipation by showing that the Giovanolli patent teaches every limitation of amended Claim 26.

Specifically, the system of Claim 26 has at least two advantageous features that the Giovanolli patent does not teach: (1) the system of Claim 26 exclusively assigns purchase requests to dealers that have a “predefined sales region with which the purchase request is associated,” and (2) the system of Claim 26 allows dealers to manage the purchase requests.

Unlike the system of Claim 26, the Giovanolli system does not exclusively assign purchase requests to dealers that “have predefined sales regions with which the purchase request is associated.” Instead, the Giovanolli system “broadcasts the request for quotation . . . to prospective sellers *based on filter conditions set by the buyer and/or the seller and/or the network operator.*” Giovanolli patent, Col. 2: 44-47. Further, the Giovanolli patent explicitly distinguishes the Giovanolli system from “central database systems” which “necessarily restrict a buyer’s choice of vendors.” Giovanolli patent, Col. 1: 53-60. Accordingly, the Giovanolli patent’s filter conditions are not “a buyer-dealer association module configured to exclusively assign each purchase request received from a potential buyer to one or more dealers that each have a predefined sales region with which the purchase request is associated.”

Additionally, the Giovanolli system does not allow a dealer to manage purchase requests. Rather, the vendor software tools of the Giovanolli system allow a vendor only to receive requests for quotation and to respond to such requests by e-mail, File Transfer Protocol, or a web site. Giovanolli patent, Col. 5: 37 – Col. 6: 11. The system of Claim 26, on the other hand, includes a dealer access module that permits each dealer to manage the purchase requests that have been assigned to the dealer.

The foregoing advantageous features allow the system of Claim 26 to better serve the interests of dealers and increase dealers’ sales. For example, by exclusively assigning purchase requests to dealers that have a predefined sales region with which the purchase request is associated, the system of Claim 26 reduces each dealer’s competition, thereby allowing each dealer to close more deals. The Giovanolli system, on the other hand, encourages hyper-competition among vendors by transmitting requests for quotation to a potentially “very large” group of vendors that meet seller’s, buyer’s, and network operator’s filter conditions. Further, while the Giovanolli patent transmits requests for quotation and allows vendors to respond via

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email, File Transfer Protocol, or a web site, the system of Claim 26 goes further, providing purchase request management, which can allow a dealer to more effectively turn purchase requests into actual sales.

In light of the foregoing distinctions and advantages, Applicants respectfully request the Examiner to withdraw the anticipation rejection of Claim 26 and to allow Claim 26.

#### **Discussion of New Claims 100-114**

Applicants submit that Claims 100-114 are allowable at least for the reasons given for Claim 26 because each of these claims depends directly or indirectly from Claim 26. Applicants further submit that each of Claims 100-114 is independently allowable for the reasons set forth below.

Claims 100-104 claim specific “purchase request management” features which the Giovanolli patent does not teach. Specifically, Claim 100 claims permitting each dealer to enter information about a purchase request which is then stored in the system database. Claims 101-102 claim the specific management function of assigning a task related to a purchase request to a user, and Claims 103-104 claim the specific management function of entering a status related to a purchase request.

Claims 105-106 claim a purchase request management system in which “the system database further comprises a plurality of product records, each product record corresponding to at least one product sold by at least one of the dealers and comprising at least a product type and an estimated product price.” The Giovanolli patent, on the other hand, explicitly states that “[n]o central database of goods, prices, etc. is involved” in the Gionvanolli system. Giovanolli patent, Col. 2: 41-42.

Claims 107-110 claim specific aspects of assigning purchase requests to dealers with a predefined sales region that the Gionvanolli patent does not teach. Specifically, Claim 107 requires assigning a purchase request to dealers with a predefined sales region that comprises a geographic region. Gionvanolli’s “filter conditions” do not define a predefined sales region. Claims 108-110 require the assignment of each purchase request to only one dealer. As set forth above, the Giovanolli patent does not teach *any* level of exclusivity, let alone restricting each purchase request to only one dealer.

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Claims 111-114 claim a specific database structure in which the purchase requests assigned to a dealer are stored in an exclusive database region reserved for that dealer. The Giovanolli patent does not teach this database structure.

Because the Giovanolli patent does not teach every limitation of Claims 100-114, these claims are allowable over the Giovanolli patent. Further, because Applicants believe that nothing in the prior art of record anticipates or renders obvious Claims 100-114, Applicants respectfully request the Examiner to allow these claims.

#### **Discussion of New Claims 115 and 116**

Applicants submit that new Claim 115 is allowable over Giovanolli at least because Giovanolli does not teach the exclusive assignment of purchase requests “to one or more dealers of the product or service that belong to a predefined subgroup of dealers that sell the product or service.” For the reasons set forth above with respect to Claim 26, Giovanolli’s buyer, seller, and system operator “filter conditions” do not establish predefined subgroups of dealers.

Applicants submit that new Claim 116 is allowable over Giovanolli at least because Giovanolli does not teach exclusively directing purchase requests “to one or more dealers that each have a predefined sales region with which the purchase request is associated.” For the reasons set forth above with respect to Claim 26, Giovanolli’s buyer, seller, and system operator “filter conditions” do not establish predefined subgroups of dealers.

Because the Giovanolli patent does not teach every limitation of Claims 115 and 116, these claims are allowable over the Giovanolli patent. Further, because Applicants believe that nothing in the prior art of record anticipates or renders obvious Claims 115 or 116, Applicants respectfully request the Examiner to allow these claims.

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**Conclusion**

For the reasons stated, Applicants respectfully request the Examiner to withdraw the rejections of Claim 26 and to allow Claims 26 and 100-116.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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